



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-588-874)

Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that certain hot-rolled steel flat products (hot-rolled steel) from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371 or (202) 482-1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 2016, the Department published the *Preliminary Determination* of this antidumping duty (AD) investigation.<sup>1</sup> A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues

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<sup>1</sup> See *Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 15222 (March 22, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

raised by parties for this final determination, may be found in the Final Issues and Decision Memorandum.<sup>2</sup>

### Scope of the Investigation

The products covered by this investigation are hot-rolled steel flat products from Japan. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

### Scope Comments

In the Preliminary Scope Decision Memorandum,<sup>3</sup> the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.

In the *Preliminary Determination*, we did not modify the scope language as it appeared in the *Initiation Notice*.<sup>4</sup> No interested parties submitted scope comments, except for Nippon Steel & Sumitomo Metal Corporation/Nippon Steel & Sumikin Bussan Corporation (collectively, the Nippon Group) in its case brief and petitioner United States Steel Corporation in its rebuttal brief. These comments are addressed in the Final Issues and Decision Memorandum. The scope of this investigation remains unchanged for this final determination.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Final Issues and Decision Memorandum, which is hereby adopted by this

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<sup>2</sup> *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, “Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Japan,” (Final Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

<sup>3</sup> *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Certain Hot-Rolled Steel Products From Australia, Brazil, Japan, the Netherlands, the Republic of Korea, Turkey, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations” dated March 14, 2016 (Preliminary Scope Decision Memorandum).

<sup>4</sup> *See* Preliminary Decision Memorandum at page 5. *See also* *Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Republic of Korea, the Netherlands, The Republic of Turkey, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 54261, 54262 (September 9, 2015) (*Initiation Notice*).

notice.<sup>5</sup> A list of the issues raised is attached to this notice as Appendix II. The Final Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, room B-8024 of the main Department of Commerce building. In addition, a complete version of the Final Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Final Issues and Decision Memorandum are identical in content.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in March, April, and May 2016, the Department verified the sales and cost data reported by the mandatory respondents and their affiliates Nippon Steel & Sumitomo Metal Corporation/Nippon Steel & Sumikin Bussan Corporation (collectively, the Nippon Group) and JFE Steel Corporation/JFE Shoji Trade Corporation (collectively, the JFE Group). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by respondents.

#### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for the Nippon Group and the JFE Group. For a discussion of these changes, *see* the Final Issues and Decision Memorandum. We have also revised the all-others rate consistent with the methodology described below.

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<sup>5</sup> *See* Final Issues and Decision Memorandum.

### All-Others Rate

Consistent with sections 735(c)(1)(B)(i)(II) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. We calculated weighted-average dumping margins for the Nippon Group and the JFE Group, that are above *de minimis* and which are not based on total facts available. Therefore, we calculated the all-others rate using a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration.<sup>6</sup>

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<sup>6</sup> With two respondents, we would normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). See Memorandum to the File, "Hot-Rolled Steel Flat Products from Japan: Calculation of the Margin for All Others Rate for the Final Determination," dated August 4, 2016.

## Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Producer	Weighted-Average Dumping Margins (percent)
Nippon Steel & Sumitomo Metal Corporation/ Nippon Steel & Sumikin Bussan Corporation	4.99
JFE Steel Corporation/JFE Shoji Trade Corporation	7.51
All-Others	5.58

## Final Affirmative Determination of Critical Circumstances, in Part

Prior to the *Preliminary Determination*, the Department found that critical circumstances exist with respect to imports of hot-rolled steel from Japan produced or exported by the Nippon Group and the JFE Group and that critical circumstances did not exist with respect to all-other producers/exporters.<sup>7</sup> As discussed in the Final Issues and Decision Memorandum, in accordance with section 735(a)(3) of the Act, we no longer find critical circumstances with respect to the JFE Group, and we now find that critical circumstances exist with respect to all-other producers/exporters. We continue to find that critical circumstances exist with respect to the Nippon Group.<sup>8</sup>

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<sup>7</sup> See *Antidumping Duty Investigations of Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, and the Netherlands and Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Preliminary Determinations of Critical Circumstances*, 80 FR 76444 (December 9, 2015).

<sup>8</sup> For a full description of the methodology and results of our analysis, see the Final Issues and Decision Memorandum.

## Disclosure

We intend to disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of hot-rolled steel from Japan, which were entered, or withdrawn from warehouse, for consumption on or after December 23, 2015 (for those entities for which we found critical circumstances exist) or on or after March 22, 2016, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination* (for all entities for which we did not find critical circumstances exist). Because we find in this final determination that critical circumstances exist for all-other producers/exporters, we will instruct CBP to suspend liquidation of all such entries on or after December 23, 2015 (which is 90 days prior to the publication of the *Preliminary Determination*) consistent with section 735(c)(4)(B) of the Act and require cash deposits. Further, because we find critical circumstances do not exist for the JFE Group, we will terminate the retroactive suspension of liquidation ordered at the *Preliminary Determination* and release any cash deposits that were required during that period, consistent with section 735(c)(3) of the Act.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price, as follows: (1) for the exporter/producer listed in the table above, the cash deposit rate will be equal to the weighted average dumping margin which the Department determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other

producers or exporters will be 5.58 percent, as discussed in the “All-Others Rate” section, above. These instructions suspending liquidation will remain in effect until further notice.

#### U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of hot-rolled steel from Japan no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

August 4, 2016

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Date

## Appendix I

### Scope of the Investigation

The products covered by this investigation are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping<sup>9</sup> or countervailing duty<sup>10</sup> orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or

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<sup>9</sup> See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea, 65 FR 6585 (February 10, 2000).

<sup>10</sup> See Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea, 65 FR 6587 (February 10, 2000).

- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;<sup>11</sup>
- Ball bearing steels;<sup>12</sup>

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<sup>11</sup> For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

- Tool steels;<sup>13</sup> and
- Silico-manganese steels;<sup>14</sup>

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs and Border Protection purposes only. The written description of the scope of the investigation is dispositive.

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<sup>12</sup> Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

<sup>13</sup> Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

<sup>14</sup> Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

## Appendix II

### List of Topics Discussed in the Final Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances, in Part
- IV. Scope of the Investigation
- V. Scope Comments
- VI. Changes Since the Preliminary Determination
- VII. Comparison to Fair Value
- VIII. Discussion of the Issues

#### *Nippon Group*

- Comment 1: Whether the Department Should Continue to Apply AFA to Steelscape's Sales of Non-prime Merchandise
- Comment 2: Whether the Department Should Continue to Apply AFA to Home Market Sales by Certain of Nippon Group's Affiliated Downstream Resellers.
- Comment 3: Whether the Department Should Include Freight Revenue and Fuel Revenue on U.S. Sales Made by Steelscape.
- Comment 4: Whether the Department Should Reduce the Weight of the Margin Calculated for Sales by One of the Nippon Group's CEP Resellers
- Comment 5: Whether the Department Should Accept the Destination Key for One of its CEP Resellers as a Minor Correction
- Comment 6: Whether the Department Should Apply AFA on Unreported Data and Whether the Department Should Decline to Increase the Cost of Further Manufacturing to Reflect its Calculation of a Markup that Steelscape Washington Charged to its Parent, Steelscape LLC, for Processing Services Performed by Steelscape Washington
- Comment 7: Whether the Department Should Find that Critical Circumstances Exist for Imports of the Merchandise Under Consideration Shipped by Nippon Group
- Comment 8: Whether the Department Should Revise its Differential Pricing Analysis
- Comment 9: Whether the Department Should Exclude Certain Products Produced by Nippon Group from the Scope of the Investigation
- Comment 10: Whether the Department Should Make an Adjustment for Nippon Group's Purchases of Iron Ore at Below Market Value
- Comment 11: Whether the Department Should Accept Nippon Group's Value-Added Calculation and Its Unreported Further-Manufactured U.S. sales
- Comment 12: Further Manufacturing Financial Expense Ratio
- Comment 13: General & Administrative Expense Ratio

***JFE Group***

- Comment 14: Whether the Department Erred in Applying Adverse Facts Available to Certain Downstream Home Market Sales
- Comment 15: Whether Adverse Facts Available is Warranted for Other Unreported Downstream Sales
- Comment 16: Whether Shoji America's Indirect Selling Expense Should be Increased
- Comment 17: Whether Shoji America's Freight Expense Should be Increased
- Comment 18: Whether Verification Minor Corrections Should be Incorporated into the Final Determination
- Comment 19: Whether the Department Erred by Resetting JFES's Reported Home Market Credit Expense
- Comment 20: Whether the Department Should Apply a CEP Offset on JFE's CEP Sales
- Comment 21: Whether the Department Should Exclude Sales by CSI from its Antidumping Calculation
- Comment 22: Whether the Department Should Continue to Apply AFA to the Cost of Inputs Supplied by JFE Shoji
- Comment 23: Whether the Department Erred in Applying the Transactions Disregarded Adjustment
- Comment 24: Whether the Department Should Adjust JFE's COM for Non-Prime Products
- Comment 25: Whether the Department Should Increase JFE's COM for Reconciliation Differences

***Tokyo Steel***

- Comment 26: Whether the Department's Refusal to Select Tokyo Steel as a Mandatory Respondent Is Unlawful
- Comment 27: Whether the Department Should Correct the Clerical Error in Its Preliminary Results

**IX. Recommendation**

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